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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,836	02/03/2000	Victor S. Moore	BC9-99-044	7966

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EXAMINER

FLYNN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 12/23/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/497,836

Applicant(s)

MOORE ET AL.

Examiner

Kimberly D Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 24, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Action is in response to an amendment filed July 24, 2003. Claims 1-18 are presented for further consideration.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Gupta et al. (U.S. Patent No 6,415,326) in view of Ravi (U.S. Patent No. 6,292, 834).

In considering claims 1, 6, and 11, Gupta discloses a method for transmitting data from a server to a requesting computer, the method comprising the steps of:

receiving a request for a data item at the server (*col. 6, lines 30-32*);

receiving a speed indication signal at the server from the requesting computer wherein the speed indication signal comprises an indicated speed of transmission (*col. 6, lines 38-40 and Lines 57-60*); and

While the system taught by Gupta discloses the invention substantially as claimed it does not disclose the step of limiting an average rate of transmission rate of transmission at least a portion of the data item across a data link to the requesting computer to be not greater than the indicated speed, and wherein the input speed is less than the data rate of the data link and the data rate capacity of the server. However, the uses and advantages of the aforementioned steps

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were well known to one skill in the relevant art at the time the invention was made as evidenced by Ravi (U.S. Patent no. 6,292,834 at col. 6, lines 34-44).

In similar art Ravi discloses a system directed to efficiently and reliably streaming data packets from a stream server to a client by optimally utilizing the bandwidth of the connection provided by the computer network. Ravi also discloses wherein the transmission rate of the data stream is dynamically adjusted in response to changes in the bandwidth made available by the computer network for the network connection between the server and the client computer. Accordingly the server in response to feed back from the client computer dynamically selects transmission rates in order to better the capacity of the network connection. Therefore, it would have been obvious to one skilled in the art to incorporate and implement the aforementioned steps into the system as disclosed by Gupta in order to enhance and improve both scalability and reliability of Gupta's system for time-altered multimedia streams since it would reduce the difficulty in achieving an efficient data transfer.

In considering claims 3, 8, and 13, the combined system of Gupta and Ravi discloses a method further comprising the steps of:

accessing a remote computer indicated in an address included in the request, and receiving the first data from the remote computer (*col. 6, lines 32-35*)

while the combined system of Gupta and Ravi discloses the system substantially as claimed it does not disclose wherein the remote computer is not one of the server and the requesting computer. Nonetheless, it would have been obvious to a person having ordinary skill in the art to recognize that since the request are being transmitted over the Internet that they could be received by a web server or proxy (remote computer) connected to the Internet for

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receiving and forwarding request in order to reduce processing time and load on the streaming server. Therefore, the remote computer would have been an obvious modification to the combined system of Gupta and Ravi.

In considering claims 4, 9, and 14, the combined system of Gupta and Ravi discloses a method further comprising the steps of reading the data item from a memory associated with the server (*col. 3, lines 17-20, and fig. 1 means (13)*).

In considering claims 5, 10, and 15, the combined system of Gupta and Ravi discloses a method for transmitting data from a server to a requesting computer, the method comprising the steps of:

accepting a user request for a data item at a client computer (*col. 6, lines 30-32*);

accepting a user input speed setting at the client computer (*col. 6, lines 38-40*);

generating a schedule for issuing pause transmission and resume transmission signals based on the user input speed setting, wherein the schedule limits a transmission rate of transmission of at least a portion of the data item across a data link to the requesting computer to be not greater than the user input speed, wherein the input speed is less than the data rate of the data link and the data rate capacity of the server; (*col. 6, lines 42-47*);

transmitting the user request for a data item to a server computer (*col. 6, lines 32-35*);

sending a sequence of pause transmission and resume transmission signals from the client computer to a server computer according to the schedule (*col. 7, lines 63-67 through col. 8, lines 1-5*).

In considering claims 16-18, Ravi further discloses wherein the transmission rate is not related to a speed that is associated with the data item. *Ravi discloses wherein the transmission*

rate is adjusted according to the bandwidth or speed (col. 6, lines 36-40), this shows that the two are not related and are different rates. .

In considering claims 2, 7, and 12, although the combined system of Gupta and Ravi discloses the invention substantially as claimed, Gupta does not explicitly disclose a method in which the limiting step comprises substeps of: determining a block size based at least on the average transmission rate; determining a period based at least on the average transmission rate; and transmitting a plurality of blocks of data, each of the blocks having a block size and being transmitted at intervals substantially equal to the time period.

However, Gupta does disclose wherein "streaming" indicates wherein data representing various data types are provided over a network to a client computer on a real-time, as-needed basis (in block) rather than being pre-delivered in its entirety before playback (*col. 1, lines 30-36*). Nonetheless, the Examiner takes official notice that it is well known that when streaming data, the data is provided in blocks wherein the size of the blocks and the period in which the blocks of data would be streamed are determined based upon the indicated or determined speed. Furthermore, it would have been obvious to a person having ordinary skill in the art to recognize that multimedia data streams are transmitted in real-time blocks based on the speed and the length rather than by downloading an entire file. Therefore, the claimed limitation would have been an obvious modification to the system taught by Gupta.

Applicant has requested a cited reference in response to the official notice statement by the Examiner. The following references are provided to show that when streaming data, the data is provided in blocks or segments wherein the size of the blocks and the period in which the

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blocks or segments of data would be streamed is determined by the indicated or determined speed.

- U.S. 6,502,139 B1 See abstract.
- U.S. 6,546,428 B2 See abstract.
- U.S. 6, 449,688 B1 See abstract.

Response to Arguments

4. Applicant's arguments filed July 24, 2003 have been fully considered but they are not persuasive.

Applicant contends that neither the Gupta reference or the Ravi reference, taken either alone or in combination, teach , suggest or make obvious the claimed invention which include limiting the average rate of transmission. Examiner disagrees. Gupta discloses that a network client accepts a speed designation or a playback speed from a human user wherein the speed designation is equivalent to the average rate of transmission. Examiner maintains that the rejections of record read on the claimed limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703-746-72388, for After Final communications

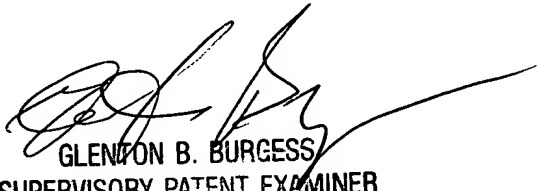
(703) 746-7239, for Official communications

(703) 746-7240, for Non-Official/Drafts.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900.

Kimberly D Flynn
Examiner
Art Unit 2153

KF
December 15, 2003


GLENON B. BURGESS
SUPERVISORY PATENT EXAMINER
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